

Exhibit B

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ALBERTO RAMOS,

Plaintiff,

v.

PALM WEST CORPORATION,
PALM WEST CORPORATION D/B/A “THE
PALM”,
LANDRY’S SEAFOOD HOUSE - NORTH
CAROLINA, INC.,
RICHARD HAMMILL, Individually
and CRAIG LEVY, Individually

Defendants.

Civil Action No.: _____

NOTICE OF REMOVAL

TO: THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK

Pursuant to 28 U.S.C. §§ 1331, 1367, 1441, and 1446, Defendants Palm West Corporation d/b/a the Palm West¹ and Tyron & Stonewall Restaurant, Inc. f/k/a Landry’s Seafood House – North Carolina, Inc.² (“Corporate Defendants”)³ hereby remove the above-captioned action from the Supreme Court of the State of New York, County of Bronx to the United States District Court for the Southern District of New York, and in support thereof state as follows:

I. PROCEDURAL HISTORY

1. On or about May 27, 2023, Plaintiff Alberto Ramos (“Plaintiff”) filed a Summons with Notice against Served Defendants, Richard Hammel and Craig Levy in the Supreme Court of

¹ Incorrectly pled as Palm West Corporation d/b/a “The Palm.”

² Incorrectly pled as Landry’s Seafood House – North Carolina, Inc.

³ As discussed *infra*, as of the filing of this submission neither Richard Hammel (incorrectly pled as Hammill) nor Craig Levy have been served with the Summons with Notice.

the State of New York, County of Bronx, under Index No. 808303/2023E, which was signed by Plaintiff's counsel. A copy of the Summons with Notice is annexed hereto as **Exhibit A**.

2. On September 27, 2023, through the Secretary of State of the State of New York, Plaintiff purportedly served Corporate Defendants, with the Summons with Notice. Copies of the Affidavits of Service are annexed hereto as **Exhibit B**.

3. As of the date of this submission, neither Richard Hammel nor Craig Levy have been served with the Summons with Notice.

II. FEDERAL QUESTION JURISDICTION

4. Removal is proper under 28 U.S.C. §§ 1441(a) and 1331 because, as pled in the Summons with Notice, Plaintiff alleges that Defendants discriminated against Plaintiff in violation of Title VII of the Civil Rights Act of 1964 as amended, 42 U.S.C. § 2000e et. seq. ("Title VII"). As Title VII is a federal statute, this Court has original jurisdiction over this action based on federal question.

5. In addition to Plaintiff's claims under Title VII, Plaintiff purports to allege claims arising under the New York State Human Rights Law and New York City Human Rights Law. This Court has supplemental jurisdiction over these causes of action pursuant to 28 U.S.C. § 1337(a).

III. THE PROCEDURAL REQUIREMENTS HAVE BEEN SATISFIED

6. All defendants who have been served with the Summons with Notice consent to the removal of this action. 28 U.S.C. § 1446(b)(1).

7. Pursuant to 28 U.S.C. § 1446(b), this Notice of Removal has been timely filed within thirty (30) days after Served Defendants initially received notice of the lawsuit commenced in state court.

8. The state court action was commenced in the Supreme Court of the State of New York, County of Bronx. Therefore, venue is proper in this Court because it is the “district and division embracing the place where such action is pending.” 28 U.S.C. § 1441(a).

IV. NOTICE TO PLAINTIFF AND THE STATE COURT

9. Contemporaneously with the filing of this Notice of Removal, and pursuant to 28 U.S.C. § 1446(d), written notice of this filing and any attendant supplementary papers required by this Court will be provided to Plaintiff, and a copy of the Notice of Removal will be filed with the Clerk of the State Court.

V. NO WAIVER OF CLAIMS OR DEFENSES

10. By removing this matter, Corporate Defendants do not waive or intend to waive any available claims or defenses.

11. Furthermore, by removing this action from the Supreme Court of the State of New York, County of Bronx, Corporate Defendants do not admit any of the allegations asserted in the Summons with Notice.

WHEREFORE, pursuant to 28 U.S.C. §§ 1331, 1367, 1441, and 1446, Corporate Defendants respectfully request that this Honorable Court take jurisdiction of this action and issue all necessary orders and process to remove said action from the Supreme Court of the State of New York, County of Bronx, to the United States District Court for the Southern District of New York. In the event this Court has a question regarding the propriety of this Notice of Removal, Corporate Defendants request the opportunity to submit evidence, points, and authorities further supporting the removal of this action.

[signature page follows]

Dated: October 27, 2023
New York, New York

Respectfully submitted,

By: /s/ Glenn S. Grindlinger

Glenn S. Grindlinger

Devin S. Cohen

FOX ROTHSCHILD LLP

101 Park Avenue, 17th Floor

New York NY 10178

Telephone: (212) 878-905-2305

Facsimile: (212) 692-0940

ggrindlinger@foxrothschild.com

dscohen@foxrothschild.com

Attorneys for Defendants

*Palm West Corporation d/b/a the Palm West and
Tyron & Stonewall Restaurant, Inc. f/k/a Landry's
Seafood House – North Carolina, Inc.*

CERTIFICATE OF SERVICE

I hereby certify that on this date I caused a copy of Served Defendants' Notice of Removal to be served upon the parties named below:

Via Pacer

Ruby J. Krajick, Clerk
United States District Court
Southern District of New York
Daniel Patrick Moynihan U.S. Courthouse
500 Pearl Street
New York, New York 10007

Via Pacer, First Class Mail, and email

DEREK SMITH LAW GROUP, PLLC
Melissa Mendoza, Esq
One Penn Plaza, Suite 4905
New York, NY 10119
melissa@dereksmithlaw.com
Attorneys for Plaintiff

Dated: October 27, 2023

/s/ Glenn S. Grindlinger
Glenn S. Grindlinger

EXHIBIT A

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX-----X
ALBERTO RAMOS,

Index No.

Plaintiff,

Plaintiff Designates
BRONX COUNTY
As the Place of Trial

-against-

PALM WEST CORPORATION, PALM WEST
CORPORATION D/B/A "THE PALM",
LANDRY'S SEAFOOD HOUSE - NORTH CAROLINA, INC.,
RICHARD HAMMILL, Individually,
and CRAIG LEVY, Individually,

SUMMONS WITH NOTICEDefendants.
-----X**TO THE ABOVE-NAMED DEFENDANTS:**

PLEASE TAKE NOTICE THAT YOU ARE HEREBY SUMMONED to serve upon Plaintiff's attorneys, DEREK SMITH LAW GROUP, PLLC, at the address stated below, a notice of appearance or demand for a complaint within 20 days after the service of this Summons, exclusive of the day of service, or within 30 days after the service is complete if this Summons is not personally delivered to you within the State of New York; and

YOU ARE HEREBY NOTIFIED THAT should you fail to serve a notice of appearance or demand for a complaint, a judgment will be entered against you by default for the relief demanded herein.

NOTICE

The nature of this action arises from violations of *inter alia*, Title VII of the Civil Rights Act of 1964 as amended, 42 U.S.C. § 2000e et. Seq. ("Title VII"), New York Executive Law, § 290, et seq. ("NYHRL"), the Administrative Code of the City of New York 8-107 et seq. ("NYCHRL"); the common laws of the State of New York and any and all other causes of action which are alleged and/or can be inferred from the facts set forth to redress the injuries Plaintiff has suffered as a result of, *inter alia*, age discrimination, national origin discrimination, race discrimination, hostile work environment, retaliation, and unlawful termination.

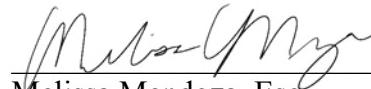
The relief sought is an amount to be determined at trial, and is an amount which exceeds the jurisdiction of all lower courts, and such other and further relief as this Court deems necessary and proper.

Should Defendants fail to appear herein or demand a complaint, judgment will be entered by default for the relief demanded above, with interest, and the costs of this action.

Plaintiff designates Bronx County as the place of trial. The basis of this designation is: Plaintiff was and is a resident of Bronx County.

Dated: May 27, 2023
New York, New York

DEREK SMITH LAW GROUP, PLLC



Melissa Mendoza, Esq.
Attorneys for Plaintiff
1 Pennsylvania Plaza, Ste 4905
New York, New York 10119
(332) 910-5677

TO:

PALM WEST CORPORATION
REGISTERED AGENT VIA SECRETARYOF STATE

PALM WEST CORPORATION D/B/A "THE PALM"
REGISTERED AGENT VIA SECRETARYOF STATE

LANDRY'S SEAFOOD HOUSE - NORTH CAROLINA, INC.,
REGISTERED AGENT VIA SECRETARYOF STATE

RICHARD HAMMILL
VIA PLACE OF EMPLOYMENT

CRAIG LEVY
VIA PLACE OF EMPLOYMENT

EXHIBIT B

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

P20025031

AFFIDAVIT OF SERVICE

Index no : 808303/2023E
Date Index Number Purchased: 05/27/2023

Plaintiff(s):	ALBERTO RAMOS
Defendant(s):	PALM WEST CORPORATION, ET AL

STATE OF NEW YORK
COUNTY OF ALBANY ss.:

Kerry Gunner, being duly sworn, deposes and says: that the deponent is not a party to this action, is over 18 years of age and resides in the State of New York.

That on **09/27/2023** at **9:16 AM**, at the office of the Secretary of State of the State of New York in the City of Albany, NY, deponent served the within **SUMMONS WITH NOTICE** upon **LANDRY'S SEAFOOD HOUSE - NORTH CAROLINA, INC.** at One Commerce Plaza, 99 Washington Avenue, Albany, NY 12231-0001.

Defendant/respondent in this action by delivering and leaving with **COLLEEN BANAHAN**, authorized agent in the office of the Secretary of State of the State of New York, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231-0001, two (2) true copies thereof and that at the time of making such service , deponent paid said Secretary of State a fee of \$40.00. That said service was made pursuant to Section **306** of the **Business Corporation Law**.

Deponent further says that the person so served was known as aforesaid to be an authorized agent in the office of the Secretary of State of the State of New York duly authorized to accept such service on the behalf of said defendant/respondent.

Deponent further states that the person actually served is described as follows :

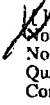
Sex	Color of skin/race	Color of hair	Age	Height	Weight
Female	White	Brown	28-35	5Ft3In-5Ft5In	200-220 lbs
Other Features:					

Documents were properly endorsed with index number and date of filing.

Sworn to and subscribed before me on 09/27/2023



Notary Public

 Victoria Nelson
Notary Public, State of NY
No. 01NE6376548
Qualified in Albany County
Commission expires 06/11/2026

[] Kerry Gunner
Notary Public, State of NY
No. 01GU5038710
Qualified in Albany County
Commission expires 02/06/2027

X

Kerry Gunner
Lexitas
1235 Broadway, 2nd Floor
New York, NY 10001
212-233-4040
20025031
20025031



SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

P20025023

AFFIDAVIT OF SERVICE

Index no : 808303/2023E
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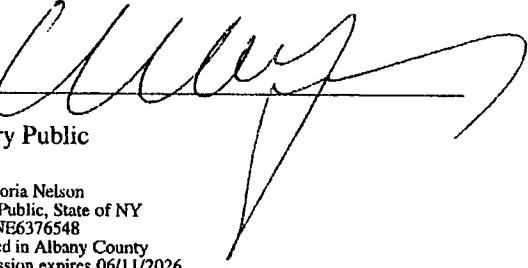
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 Lexitas
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 New York, NY 10001
 212-233-4040
 20025023
 20025023



SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

P20025015

AFFIDAVIT OF SERVICE

Index no : 808303/2023E
Date Index Number Purchased: 05/27/2023

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